

**PROPOSED ORDER  
OF THE WISCONSIN DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION  
ADOPTING RULES**

The Wisconsin department of agriculture, trade and consumer protection hereby proposes the following rule *to repeal* ATCP 82.01 (6), 82.10 (5) (b) and 82.14 (3); *to renumber and amend* 82.10 (9), 82.12 (2m), (2m) (b), (3), (4), (4) (d), (5), (6), (6) (a) and (b), and 82.14 (4); *to amend* ATCP 82 (title), 82.02 (7) (a) and (b), 82.04 (6), (7) (b), and (8), 82.08 (1) (a) to (c), (2) (a) and (b), (3), (3) (a), (4) (title) and (a) to (c), 82.10 (1) (a) and (b), (2), (2) (c) to (e), (3), (4) (b), (5) (a), (6) (a) to (d), (7), (8) (a) to (c), (10) and (11) (a), (b), and (c), 82.12 (1) (a) and (b), (2), and (2) (a) to (d); and *to create* ATCP 82.01 (2m) and (4m), 82.02 (8) (title) and (a) to (c), 82.04 (2m) and (5) (c), (9) (title) and (a) to (c), 82.08 (4) (d) and (6) (d), 82.10 (9) (b) and (11) (am); *relating to* milk hauler regulations, and affecting small business.

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**Analysis Prepared by the Department  
of Agriculture, Trade and Consumer Protection**

Ch. ATCP 82 (Milk Haulers) regulates bulk milk tanker licensing, construction, maintenance, cleaning and sanitizing requirements; bulk milk weigher and sampler requirements, and mandatory procedures for collecting milk from dairy farms and delivering milk to a dairy plant and collecting milk samples for testing. This rule revision will align Wisconsin's regulations with the Food and Drug Administration's (FDA) Pasteurized Milk Ordinance (PMO) by allowing bulk milk weighers and samplers to collect partial loads of milk.

***Statutes Interpreted***

Statute Interpreted: s. 97.21, Stats., (Milk haulers and milk distributors).

***Statutory Authority***

Statutory Authority: ss. 93.07 (1), 97.09 (4), and 97.21 (6), Stats.

### ***Explanation of Statutory Authority***

DATCP has broad general authority, under s. 93.07 (1), Stats., to adopt rules to implement programs under its jurisdiction. DATCP also has general authority under s. 97.09 (4), Stats., to adopt rules specifying standards to protect the public from the sale of adulterated or misbranded foods. The department has specific authority to promulgate rules related to milk haulers under s. 97.21(6), Stats., which allows the department to establish rules related to: fees and regulations for bulk milk tanker operators and milk distributors; standards for the construction, maintenance and sanitary operation of bulk milk tankers, milk distribution vehicles and milk distribution facilities; the design, installation, cleaning and maintenance of equipment and utensils; personnel sanitation; storage and handling of milk and fluid milk products; identification of bulk milk tankers and milk distribution vehicles; and, record keeping.

### ***Related Statutes and Rules***

Wisconsin's milk haulers are governed by ch. 97, Stats. (Food Regulation). Milk haulers and milk distributors are regulated under s. 97.21, Stats., (Milk haulers and milk distributors). Chapter 82, Wis. Adm. Code, interprets ch. 97, Stats., as it relates to milk haulers and milk distributors.

### ***Plain Language Analysis***

The dairy industry is essential to Wisconsin's economy. Wisconsin ranks second nationally in milk production and has 10,900 licensed dairy farms. Milk is shipped from each of these farms in a licensed bulk milk tanker (approximately 4,000 in Wisconsin) to one of more than 400 licensed dairy plants in the state or to a licensed dairy plant in another state. Safe and sanitary handling of milk throughout the collection and transportation process is critical for protecting the quality of milk produced in this state. Accurate measurement of collected milk and proper sampling of milk for analysis help ensure fair payment and milk safety, respectively.

The following proposed rule changes are needed to maintain Wisconsin's reputation for its world class dairy products by aligning inspection practices with the Food and Drug Administration's (FDA's) Grade "A" Pasteurized Milk Ordinance (PMO). The PMO establishes minimum standards for Grade "A" dairy products. States must meet standards equivalent to or more stringent than those in the PMO to be allowed to ship Grade "A" milk in interstate commerce. The standards are established by the National Conference on Interstate Milk Shipments (NCIMS), which consists of voting representatives from dairy regulatory agencies in each state.

#### **Partial Collections of Milk from Bulk Milk Tanks**

The rule proposes adopting a provision of the PMO that allows bulk milk weighers and samplers to make partial collections of milk from bulk tanks on dairy farms under certain conditions. Currently, ATCP 82 requires bulk milk weighers and samplers to empty a bulk milk tank each time they collect milk from the farm. The original intent of the regulation was to ensure that a dairy producer's bulk tank was regularly cleaned and sanitized and to ensure that collection-to-

collection transfers of illegal drug residues did not occur, which could result in increased financial losses to dairy producers forced to dump multiple loads of milk.

Despite these worthwhile intentions, the requirement prohibiting partial collection of milk from a bulk tank is outdated. Farm sanitation methods have improved since Wisconsin's rule was first adopted. Frequent testing can allow dairy plants to quickly address problems related to bulk tank cleanliness. As the number of dairy farms has decreased, farms have become larger, and per cow milk production has risen, many farms have purchased larger or additional bulk tanks, thereby creating new challenges for managing milk collection. Allowing partial collection of milk from bulk tanks will provide industry with the tools they need to manage milk collection from farms more efficiently. In the long run, increased flexibility for collection of milk may result in fewer trips required to haul milk, with associated fuel savings, and less wear and tear on roadways.

The PMO allows partial collection of milk provided that certain practices are used to maintain the quality of milk. The proposed rule adopts these practices, which include a requirement that the bulk tank is emptied, cleaned and sanitized within at least 72 hours and that an acceptable temperature-recording device is installed and operating on the tank. To ensure proper regulatory oversight of partial collections of milk, the proposed rule also requires a bulk milk weigher and sampler to record when a partial pickup is made and when the bulk tank is emptied.

#### Bulk Milk Tanker Grade "A" Permit Reciprocity

The proposed rule also seeks to clarify and strengthen reciprocity requirements for bulk milk tanker Grade "A" permits. The Grade "A" Pasteurized Milk Ordinance requires that each bulk milk tank truck, delivering Grade "A" raw milk and milk products, bear a Grade "A" permit. Grade "A" permits may only be issued after satisfactory completion of an inspection that addresses specific items outlined in the PMO. Each bulk milk tanker is required to be inspected once per year and the bulk milk tanker operator must be able to show proof of a current permit and passed inspection to deliver Grade "A" milk and milk products. The PMO requires that each bulk milk tanker only need bear one permit from an appropriate state regulatory agency and that each permit be recognized by other regulatory agencies under the reciprocal agreements of the NCIMS.

Under s. 97.21 (2) (a) and (b), Stats., any bulk milk tanker that operates in Wisconsin must hold a license and a Grade "A" permit. Under the current rule, a Grade "A" permit is routinely issued for each tanker as an endorsement on the license. Since any tanker that operates in Wisconsin must hold a license, Grade "A" permits are issued both to tankers located in Wisconsin and out-of-state tankers that operate in Wisconsin. However, because out-of-state tankers are not necessarily located in Wisconsin, it may not be possible to conduct the annual inspection required to make the Grade "A" permit valid.

The proposed rule will end the practice of routinely providing a Grade "A" permit as part of the licensing process and clarify that a Grade "A" permit will only be granted after completion of the required annual inspection, as required by the PMO. It also clarifies that the department will recognize valid Grade "A" permits issued by another equivalent state regulatory agency if the bulk milk tanker operator can provide proof of a current passed inspection. These changes will

allow out-of-state tankers to seek Grade “A” inspections from the regulatory agency in which their tankers are located and will bring Wisconsin into compliance with reciprocity requirements of the PMO and the NCIMS.

#### Certified Industry Inspection Program for Bulk Milk Tankers

Often, logistical issues make it difficult for the department to schedule annual bulk milk tanker inspections in a timely manner. Bulk milk tankers must hold a valid Grade “A” permit and demonstrate they’ve passed a recent inspection to deliver Grade “A” milk and milk products. If a Wisconsin tanker tries to deliver Grade “A” milk or milk products without a current inspection, the tanker load may be turned away or another state regulatory agency may conduct an inspection and charge the tanker a fee. To ensure that all Wisconsin-based bulk milk tankers receive an annual inspection, the proposed rule will also establish a certified industry inspection program for inspecting bulk milk tankers.

Section 5 of the PMO allows state regulatory agencies to certify certain industry personnel to carry out bulk milk tanker inspections. Certified industry inspections are carried out under a cooperative arrangement with the state regulatory agency. Section 97.32, Stats., also establishes procedures that allow the department to appoint industry personnel to conduct special food and dairy inspections. The proposed rule allows the department to select industry inspection personnel for the certified inspection program in accordance with s. 97.32, Stats., and adopts PMO procedures for conducting certified industry inspections. The PMO establishes stringent procedures for ensuring proper regulatory oversight of industry inspections so that inspections are conducted consistently and that they effectively evaluate bulk milk tanker equipment construction, cleaning, sanitation and repair. The rule authorizes certified industry inspectors to perform all regulatory actions associated with issuing a Grade “A” permit for bulk milk tankers, establishes selection procedures, establishes a certification period of 3 years, and establishes record retention requirements. The proposed rule allows the department to revoke certification if a certified industry inspector fails to meet the requirements of the program. Under the proposed rule, bulk milk tankers must be inspected annually by the department, another equivalent regulatory agency, or a certified industry inspector.

#### Other changes to modernize ATCP 82

In addition to clarifying practices for recognizing reciprocity with other states for bulk milk tanker Grade “A” permits and allowing partial collection of milk from bulk tanks, the proposed rule also makes other changes designed to modernize the rule and further align the rule with the PMO. The proposed rule:

- Removes the definition of “milk hauler” and use of the term “milk hauler” and replaces the definition and terms with “bulk milk weigher and sampler” to reflect current terminology which more fully encompasses the tasks they perform. The definitions are also revised to clarify that use of the term “department” throughout the rule refers to the Department of Agriculture, Trade and Consumer Protection.

- Removes the requirement that a bulk milk tanker operator must clean and sanitize the milk tankers and instead specifies that the tanker must be cleaned and sanitized adequately. The proposed rule focuses on the task that must be accomplished, rather than who must accomplish it.
- Clarifies that personnel at the entity responsible for cleaning and sanitizing a bulk milk tanker must remove the old cleaning tag and retain it, and put a new cleaning tag on the tanker. Formerly, the tanker operator retained the old tag. The proposed rule thereby keeps the records at the location where the documented action occurred.
- Adds a requirement that, in addition to obtaining a license, a Bulk Milk Weigher and Sampler who seeks to hold the Grade “A” permit necessary for collection of Grade “A” samples must be inspected every two years. This requirement will bring Wisconsin’s bulk milk weigher and sampler requirements into compliance with the PMO. There will be no additional fees for these inspection and permit requirements.
- Removes the requirements that the tanker access port(s) be sealed after the tanker is filled with milk, and that a broken seal(s) must be reported to the department. This requirement was originally added in ATCP 82 in response to industry concerns about intentional adulteration (tampering). However, the PMO does not require tanker access ports to be sealed after filling, and the requirement to report broken seals to the department has only been occasionally invoked. When the requirement has been invoked, it has proven to be superfluous in light of existing industry food defense practices.

### ***Fiscal Impact***

This rule will not have a significant fiscal impact on state government. The department will absorb any costs under its existing dairy program. This rule will have no fiscal effect on local governments or public utility rate payers.

### ***Business Impact***

Proposed rule changes allowing the partial collection of milk from bulk milk tanks are expected to have a positive impact on dairy producers, dairy plants, and companies that operate bulk milk tankers. The rule change may impose costs on some dairy producers who may need to purchase a 7-day temperature recording-device for their bulk milk tank. The PMO requires all bulk milk tanks produced after January 1, 2000 to be equipped with an approved temperature recording device, but dairy producers who own older tanks may need to purchase a temperature recording device to allow partial collection of milk from their bulk tanks. However, participation in partial collection of milk from bulk tanks will be voluntary and producers will not be required to install a 7-day temperature recording device if partial collections of milk are not made from the farm. Producers who have partial collections of milk from their bulk tanks may expect to offset some costs through reduced water and chemical use for bulk tank cleaning. Allowing partial collection of milk from tanks may also have a positive financial impact on trucking firms as it may allow them more efficiently plan daily pick up routes, saving fuel and time costs. Proposed rule changes related to inspecting and providing Grade “A” permits for bulk milk tankers will have

no impact on business since bulk milk tankers are already required to be licensed and inspected. The rule does not increase license or permit fees.

### ***Federal and Surrounding State Programs***

#### **Federal Programs**

The Food and Drug Administration's (FDA's) Grade "A" Pasteurized Milk Ordinance (PMO) establishes minimum standards for Grade "A" dairy products. States must meet standards equivalent to, or more stringent than, those in the PMO to be allowed to ship Grade "A" milk in interstate commerce. These rule changes will bring Wisconsin's regulations regarding milk pick up, sampling and delivery in line with the 2011 PMO.

#### **Surrounding State Programs**

Michigan, Minnesota, Iowa and Illinois adopt the PMO as part of their dairy regulations and therefore already allow partial collection of milk from bulk milk tanks. The proposed rule will also align Wisconsin's regulations with the PMO and these neighboring states for licensing and permitting of Grade "A" tankers and Bulk Milk Weighers and Samplers. Each of these states licenses milk tankers, and issues a Grade "A" permit after inspection. Some states charge an inspection fee associated with these inspections.

### ***Data and Analytical Methodologies***

Proposed rule changes were developed after consultation with industry, a review of PMO requirements, and a review of practices in neighboring states.

### ***DATCP Contact***

Questions and comments (including hearing comments) related to this rule may be directed to:

Peter Haase, Director  
Bureau of Food Safety and Inspection  
Department of Agriculture, Trade and Consumer Protection  
P.O. Box 8911  
Madison, WI 53708-8911  
Telephone: (608) 224-4711  
E-Mail: [Peter.Haase@Wisconsin.gov](mailto:Peter.Haase@Wisconsin.gov)

Rule comments will be accepted up to two weeks after the last public hearing is held on this rule. Hearing dates will be scheduled after this rule is approved by the Board of Agriculture, Trade and Consumer Protection.

Chapter 82 (title) BULK MILK HAULERS-COLLECTION, SAMPLING, AND  
TRANSPORTATION

**SECTION 2.** ATCP 82.01 (2m) and (4m) are created to read:

ATCP 82.01 (2m) “Bulk milk weigher and sampler” means any person who collects official samples and may transport raw milk from a farm or raw milk or milk products to or from a dairy plant, receiving station or transfer station.

ATCP 82.01 (4m) “Department” means the Wisconsin department of agriculture, trade and consumer protection.

**SECTION 3.** ATCP 82.01 (6) is repealed.

**SECTION 4.** ATCP 82.02 (7) (a) and (b) are amended to read:

ATCP 82.02 (7) (a) Except as provided under par. (c), no person may operate a bulk milk tanker to transport milk or milk products for sale or use as grade A milk or grade A fluid milk products unless that person holds a valid grade A permit issued annually for that bulk milk tanker by the department or an equivalent regulatory agency in another state where that bulk milk tanker is normally based. A grade A permit is not transferable between persons or bulk milk tankers. ~~A grade A permit may be issued in the form of an endorsement on a bulk milk tanker license under sub. (1).~~

ATCP 82.02 (7) (b) An application for a grade A permit under par. (a) shall be made on a form provided by the department, ~~and may be included with a license application under sub. (2).~~ The department shall grant or deny a grade A permit application within 40 days after the department receives a complete application. An application is complete only upon proof, submitted by the bulk milk tanker operator, of a current inspection of the bulk milk tanker by

1 the department, another state's agency responsible for issuing grade "A" bulk milk tanker  
2 permits, or a certified industry inspector as allowed under s. ATCP 82.02(8).

3 **SECTION 5.** ATCP 82.02 (8) (title) and (a) to (c) are created to read:

4 ATCP 82.02 (8) (title) CERTIFIED INDUSTRY INSPECTION OF GRADE A BULK MILK  
5 TANKERS.

6 ATCP 82.02 (8) (a) The department may certify industry personnel to inspect bulk milk  
7 tankers for the purpose of issuing grade A permits. Certified industry inspectors shall be  
8 authorized to perform all regulatory actions associated with issuing grade A permits for bulk  
9 milk tankers.

10 ATCP 82.02 (8) (b) Applicants for the certified industry inspection program shall meet  
11 requirements for special dairy and food inspection under s. 97.32, Stats. and shall meet  
12 additional certified requirements as determined by the department. Certification shall be for  
13 a period not exceeding 3 years from the date of formal certification or re-certification. The  
14 department may revoke certification at any time for failing to comply with the requirements  
15 of the certified dairy inspection program.

16 ATCP 82.02 (8) (c) The department shall maintain a written program describing  
17 procedures for implementing the certified industry inspection program. Certified industry  
18 inspectors shall maintain copies of certification and inspection records for 3 years and shall  
19 file annual bulk milk tanker inspection reports with the department.

20 **SECTION 6.** ATCP 82.04 (2m) and (5) (c) are created to read:

21 ATCP 82.04 (2m) INSPECTION REQUIRED. A licensed bulk milk weigher and sampler may  
22 not measure or sample milk at a dairy farm or dairy plant unless they have passed an inspection  
23 conducted on their practices during the preceding 24 months. If the bulk milk weigher and



1 sampler has not passed an inspection during the preceding 24 months, an inspection shall be  
2 conducted by the department. Only a licensed bulk milk weigher and sampler shall measure or  
3 sample milk at a dairy farm or dairy plant.

4 ATCP 82.04 (5) (c) The department may require that the bulk milk weigher sampler pass  
5 a written examination, at no charge, in conjunction with a reinspection.

6 **SECTION 7.** ATCP 82.04 (6), (7) (b), and (8) are amended to read:

7 ATCP 82.04 (6) ACTION ON LICENSE APPLICATION. The department shall grant  
8 or deny a license application under sub. (4) within ~~60~~ 90 days after the department receives a  
9 complete application.

10 ATCP 82.04 (7) (b) Successfully completing a field examination administered by the  
11 department within 60 days of passing the written examination.

12 ATCP 82.04 (8) LICENSE RENEWAL. A person applying to renew a bulk milk  
13 weigher and sampler license ~~may~~ shall be required to pass a ~~written examination or~~ field  
14 examination administered by the department within the previous 24 months from the license  
15 expiration date.

16 **SECTION 8.** ATCP 82.04 (9) (title) and (a) to (c) are created to read:

17 ATCP 82.04 (9) (title) GRADE A PERMIT.

18 ATCP 82.04 (9) (a) No person may collect grade A official samples unless that person  
19 holds a valid grade A permit issued by the department or an equivalent regulatory agency in  
20 another state. A grade A permit issued by the department is valid for two years from the date of  
21 issuance and is not transferable between persons.

22 ATCP 82.04 (9) (b) An application for a grade A permit under par.(a) shall be made on a  
23 form provided by the department and may be included with a license application under sub. (2).

1 The department shall grant or deny a grade A permit application within 40 days after the  
2 department receives a complete application.

3 ATCP 82.04 (9) (c) In order for a bulk milk weigher and sampler or another individual  
4 licensed under 97.17, Stats., to hold a valid grade A permit, the bulk milk weigher and sampler  
5 must be inspected at least once every two years by the department or an equivalent regulatory  
6 agency in another state. It is the responsibility of the bulk milk weigher and sampler to provide  
7 current proof of inspection

8 **SECTION 9.** ATCP 82.08 (1) (a) to (c), (2) (a) and (b), (3), (3) (a), (4) (title) and (a) to (c)  
9 are amended to read:

10 ATCP 82.08 (1) (a) No person may operate a bulk milk tanker unless a the bulk milk  
11 ~~tanker operator cleans the bulk milk tanker~~ is cleaned immediately after each day's use and  
12 ~~sanitizes the bulk milk tanker~~ sanitized prior to the next day's use. A bulk milk tanker ~~operator~~  
13 ~~shall clean and sanitize a bulk milk tanker~~, including all attached dairy product pumps and hoses,  
14 shall be cleaned and sanitized according to this section. A bulk milk tanker ~~operator~~ shall ~~re-~~  
15 ~~sanitize a bulk milk tanker~~ be re-sanitized if the tanker has not been used for more than 96 hours  
16 after last being sanitized.

17 ATCP 82.08 (1) (b) Except as provided in par. (c), a bulk milk tanker ~~operator~~ is not  
18 required to ~~clean~~ be cleaned or ~~sanitize a bulk milk tanker~~ sanitized between loads during a 24  
19 hour period, provided that a the bulk milk tanker ~~operator cleans the bulk milk tanker~~ is cleaned  
20 after that day's use and ~~sanitizes the bulk milk tanker~~ sanitized prior to the next day's use.

21 ATCP 82.08 (1) (c) A bulk milk tanker ~~operator shall clean and sanitize dairy product~~  
22 ~~pumps and hoses attached to the bulk milk tanker~~ shall be cleaned and sanitized whenever those  
23 pumps or hoses remain unused for more than 4 hours.

1           ATCP 82.08 (2) (a) A bulk milk tanker, and its pumps and hoses, shall be cleaned and  
2   sanitized in a fully enclosed and heated facility. The facility shall have an impervious drained  
3   floor. The facility shall be equipped with adequate hot and cold water under pressure, a wash  
4   vat, pressure sanitizing facilities and equipment storage racks. Bulk milk tankers may be cleaned  
5   and sanitized in the same room where milk is received from those bulk milk tankers.

6           ATCP 82.08 (2) (b) A facility used to clean and sanitize grade A bulk milk tankers,  
7   pumps, and hoses shall be covered by a grade A permit under sub. (6) and meet the requirements  
8   of sub. (a).

9           ATCP 82.08 (3) CLEANING AND SANITIZING PROCEDURE. Whenever a bulk milk tanker  
10   ~~operator cleans~~ is cleaned and ~~sanitizes a bulk milk tanker~~ sanitized, the bulk milk tanker  
11   operator or dairy plant employee shall do all of the following:

12           ATCP 82.08 (3) (a) Clean and sanitize every dairy product contact surface on the bulk  
13   milk tanker, including product contact surfaces of equipment and accessories used on the tanker.  
14   If a bulk milk tanker operator or dairy plant employee is only required to clean tanker pumps and  
15   hoses under sub. (1) (c), ~~the operator~~ they shall clean every dairy product contact surface on  
16   those pumps and hoses.

17           ATCP 82.08 (4) (title) CLEANING TAG DOCUMENTATION.

18           ATCP 82.08 (4) (a) ~~Whenever a bulk milk tanker operator cleans and sanitizes a bulk~~  
19   ~~milk tanker according to sub. (1), the bulk milk tanker operator shall attach to the tanker a~~ No  
20   person may operate a bulk milk tanker unless a cleaning tag is attached that includes all of the  
21   following information:

- 22           1. The identification number of the bulk milk tanker, including grade A permit number if  
23           any.

1           2. The date and time of day when the bulk milk tanker ~~operator~~ was cleaned and  
2           sanitized ~~the bulk milk tanker~~.

3           3. The name and location of the facility where the bulk milk tanker ~~operator~~ was cleaned  
4           and sanitized ~~the bulk milk tanker~~, and the facility's grade A permit number under sub.  
5           (6) if any.

6           4. The signature or initials of the person who cleaned and sanitized the tanker.

7           ATCP 82.08 (4) (b) The bulk milk tanker ~~operator~~ shall ~~attach the~~ have a tag attached as  
8           required under par. (a) to the outlet valve or inside the pump cabinet of the tanker. No person  
9           may remove the tag, except as provided in par. (c).

10          ATCP 82.08 (4) (c) Whenever a bulk milk tanker operator or dairy plant employee cleans  
11          and sanitizes a bulk milk tanker, ~~the bulk milk tanker operator shall remove~~ the last cleaning tag  
12          attached to the bulk milk tanker under this subsection shall be removed before attaching a new  
13          tag. The ~~operator removed tag shall retain the removed tag~~ be retained for at least 15 days, at the  
14          location where the bulk milk tanker ~~operator~~ was cleaned and sanitized ~~the bulk milk tanker~~.

15          **SECTION 10.** ATCP 82.08 (4) (d) and (6) (d) are created to read:

16          ATCP 82.08 (4) (d) Whenever a bulk milk tanker operator or a dairy plant employee  
17          cleans and sanitizes a direct ship tanker, they shall apply seal(s) to the access port(s).

18          ATCP 82.08 (6) (d) In order for a bulk milk tanker cleaning facility to hold a valid grade  
19          “A” permit, the bulk milk tanker cleaning facility must be inspected semi-annually by the  
20          department.

21          **SECTION 11.** ATCP 82.10 (1) (a) and (b), (2), (2) (c) to (e), (3), (4) (b) and (5) (a) are  
22          amended to read:

1           ATCP 82.10 (1) (a) If milk from a grade A or grade B dairy farm violates an applicable  
2           standard under s. ATCP 60.15 on any single test, milk from that farm shall be collected at least  
3           once every 2 days until a subsequent test shows that the milk from that dairy farm no longer  
4           violates that standard. This paragraph does not require a bulk milk ~~hauler~~ weigher and sampler  
5           to collect milk if collection would violate ch. ATCP 60.

6           ATCP 82.10 (1) (b) A dairy plant operator receiving milk from a dairy farm shall  
7           immediately notify the bulk milk ~~hauler~~ weigher and sampler and milk producer whenever milk  
8           from that dairy farm must be collected more frequently in order to comply with par. (a). No  
9           dairy plant operator may receive milk collected in violation of par. (a).

10          ATCP 82.10 (2) SUPPLIES REQUIRED FOR MILK COLLECTION AND  
11          SAMPLING. A bulk milk ~~hauler~~ weigher and sampler who collects milk in bulk shall have the  
12          following supplies available:

13          ATCP 82.10 (2) (c) A sanitizing solution of not less than 100 ppm nor more than 200  
14          ppm chlorine or its equivalent. The bulk milk ~~hauler~~ weigher and sampler shall carry a  
15          sanitizing solution test kit to test the strength of the sanitizing solution.

16          ATCP 82.10 (2) (d) If a bulk milk ~~hauler~~ weigher and sampler collects milk from a bulk  
17          tank at a dairy farm, an insulated carrying case with a rack to hold samples collected under s.  
18          ATCP 82.12. The carrying case shall comply with s. ATCP 82.12 (6) (a).

19          ATCP 82.10 (2) (e) A dial or digital thermometer, calibrated for accuracy against a  
20          thermometer traceable to a National Institute of Standards and Technology certified thermometer  
21          every six months, accurate to plus or minus 2° F., that can be used to check the accuracy of farm  
22          bulk tank indicating thermometers under sub. (6) (b).

1           ATCP 82.10 (3) BULK MILK HAULER WEIGHER AND SAMPLER SANITATION.

2   A bulk milk hauler weigher and sampler shall wear clean, ~~light-colored~~ clothes ~~and an effective~~  
3 ~~hair restraint~~ when measuring, sampling or collecting milk at a dairy farm. A bulk milk hauler  
4 weigher and sampler shall maintain a high degree of personal cleanliness, and shall observe good  
5 hygienic practices during all working periods. No bulk milk hauler weigher and sampler who  
6 has a discharging or infected wound, sore or lesion on his or her hands or exposed arms may  
7 measure, sample or collect milk at a dairy farm.

8           ATCP 82.10 (4) (b) A bulk milk hauler weigher and sampler who rejects milk under par.  
9 (a) may not collect that milk, or commingle it with milk from any other producer. If a producer  
10 disputes a bulk milk hauler's weigher and sampler's rejection of milk, the bulk milk hauler  
11 weigher and sampler shall contact the operator of the dairy plant to which the milk would  
12 ordinarily be delivered, and the dairy plant operator shall examine the rejected milk to determine  
13 whether it was properly rejected.

14           ATCP 82.10 (5) (a) A bulk milk hauler weigher and sampler shall wash and dry ~~his or~~  
15 ~~her their~~ hands before performing any of the following operations at a dairy farm:

- 16   1. Using the bulk milk hauler's weigher and sampler's calibrated thermometer to measure the  
17 temperature of milk in a dairy farm bulk tank.  
18   2. Measuring ~~or sampling~~ the milk in the bulk tank.  
19   3. ~~Connecting-Sampling the bulk-milk tanker hose to in the dairy farm~~ bulk tank.

20           **SECTION 12.** ATCP 82.10 (5) (b) is repealed.

21           **SECTION 13.** ATCP 82.10 (6) (a) to (d), (7) and (8) (a) to (c) are amended to read:

22           ATCP 82.10 (6) (a) Before a bulk milk hauler weigher and sampler collects milk at a  
23 dairy farm, the bulk milk hauler weigher and sampler shall record the temperature of the milk to

1 be collected, as shown on the dairy farm bulk tank indicating thermometer. If the milk is  
2 collected more than 2 hours after the last milking, the bulk milk hauler weigher and sampler shall  
3 reject the milk if the milk temperature exceeds 45° F. (7° C.). If milk from 2 or more milkings is  
4 collected within 2 hours of the last milking, the bulk milk hauler weigher and sampler shall reject  
5 the milk if the milk temperature exceeds 50° F. (10° C.).

6       ATCP 82.10 (6) (b) At least once each month, and more often if necessary, a bulk milk  
7 hauler weigher and sampler shall check the accuracy of each dairy farm bulk tank indicating  
8 thermometer by measuring the temperature of milk in the bulk tank with the bulk milk hauler's  
9 weigher and sampler's dial or digital thermometer. The bulk milk hauler weigher and sampler  
10 shall keep a written record comparing the temperatures recorded by the bulk milk hauler's  
11 weigher and sampler's thermometer with those recorded by the bulk tank thermometer. The  
12 written record shall be kept in the dairy farm milkhouse for at least one year.

13       ATCP 82.10 (6) (c) Before a bulk milk hauler weigher and sampler uses a dial or digital  
14 thermometer to measure the temperature of milk in a dairy farm bulk tank, the hauler weigher  
15 and sampler shall sanitize the stem of the thermometer in a sanitizing solution of not less than  
16 100 ppm nor more than 200 ppm chlorine or its equivalent. The bulk milk hauler weigher and  
17 sampler shall use the sanitizing solution according to label directions.

18       ATCP 82.10 (6) (d) A bulk milk hauler weigher and sampler shall immediately notify  
19 the milk producer and the dairy plant operator if the bulk milk hauler weigher and sampler finds  
20 that a dairy farm bulk tank is not cooling properly, or that the bulk tank thermometer is not  
21 recording temperatures accurately.

22       ATCP 82.10 (7) CONNECTING MILK HOSE. Before a bulk milk hauler weigher and  
23 sampler connects a bulk milk tanker hose to a dairy farm bulk tank, the bulk milk hauler weigher

1 and sampler shall examine the fittings of the bulk milk tanker hose and the dairy farm bulk tank  
2 outlet to ensure that both are clean. Before connecting the hose, the bulk milk hauler weigher  
3 and sampler ~~may~~ shall clean and sanitize the bulk tank outlet if the outlet valve is leaking. The  
4 bulk milk hauler weigher and sampler shall attach the milk hose to the bulk tank outlet in a  
5 manner that does not contaminate the hose or hose cap. The hose shall be connected through the  
6 hose port in the milkhouse, and not through the milkhouse door.

7       ATCP 82.10 (8) (a) Before milk is transferred from a dairy farm bulk tank to a bulk milk  
8 tanker, the bulk milk hauler weigher and sampler shall accurately measure the amount of milk in  
9 the bulk tank. The bulk milk hauler weigher and sampler shall measure the milk using a ~~clean~~  
10 gauge rod ~~or other measuring device~~ that is specifically designed and calibrated to measure milk  
11 in the bulk tank. Immediately before using the gauge rod ~~or measuring device~~, the bulk milk  
12 hauler weigher and sampler shall ~~rinse the gauge rod or device with warm potable water, and~~  
13 wipe it dry with a clean single-service disposable towel.

14       ATCP 82.10 (8) (b) A bulk milk hauler weigher and sampler shall not measure the  
15 amount of milk in a dairy farm bulk tank until the milk is motionless. If the milk is being  
16 agitated, the bulk milk hauler weigher and sampler shall turn off the agitator and wait for the  
17 milk to become completely motionless before measuring the milk.

18       ATCP 82.10 (8) (c) After measuring the milk with a gauge rod or other device, the bulk  
19 milk hauler weigher and sampler shall use that measurement to calculate the weight or volume of  
20 milk in the bulk tank using the bulk tank manufacturer's conversion chart. The bulk milk hauler  
21 weigher and sampler shall record that weight or volume on a written collection record under sub.  
22 (10).

23       **SECTION 14.** ATCP 82.10 (9) is renumbered ATCP 82.10 (9) (a) and amended to read:



1           ATCP 82.10 (9) (a) Before milk is transferred from a dairy farm bulk tank to a bulk milk  
2 tanker, a bulk milk hauler weigher and sampler shall collect a representative sample of that milk  
3 from the bulk tank for testing. The bulk milk hauler weigher and sampler shall collect the test  
4 sample according to s. ATCP 82.12.

5           **SECTION 15.** ATCP 82.10 (9) (b) is created to read:

6           ATCP 82.10 (9) (b) No additional milk may be added to the bulk tank until sampling and  
7 measuring has occurred, the pick-up of milk is complete, and the pick-up hose is disconnected  
8 from the bulk tank.

9           **SECTION 16.** ATCP 82.10 (10) and (11) (a) are amended to read:

10          ATCP 82.10 (10) MILK COLLECTION RECORD. Whenever a bulk milk hauler  
11 weigher and sampler collects a milk shipment from a dairy farm, the bulk milk hauler weigher  
12 and sampler shall make a written or electronic collection record for that shipment. One duplicate  
13 or electronically-printed copy of the collection record shall be posted in the dairy farm  
14 milkhouse, and an identical copy shall be provided to the dairy plant operator when the milk is  
15 delivered to a dairy plant. The collection record shall be legibly signed or initialed by the bulk  
16 milk hauler weigher and sampler and shall include all of the following:

17          (a) The milk producer's dairy plant identification number.

18          (b) The bulk milk hauler's weigher and sampler's license number and license expiration  
19 date.

20          (c) The date and time when the milk was sampled and collected.

21          (d) The temperature of the milk when collected, as determined by the bulk milk hauler  
22 weigher and sampler under sub. (6).

1 (e) The weight or volume of milk collected, as determined by the bulk milk hauler  
2 weigher and sampler under sub. (8).

3 ATCP 82.10 (11) (a) After a bulk milk hauler weigher and sampler has sampled milk  
4 from a dairy farm bulk tank under sub. (9) and prepared a complete collection record under sub.  
5 (10), the ~~hauler~~ bulk milk weigher and sampler may transfer milk from that bulk tank to the bulk  
6 milk tanker. A bulk milk hauler weigher and sampler may not collect milk from any container  
7 on a dairy farm, other than from a bulk tank. ~~A milk hauler may not collect any milk from a bulk~~  
8 ~~tank unless the hauler collects all of the milk from that bulk tank before any more milk is added~~  
9 ~~to the tank.~~ Except as provided in sub. (am), partial removal of milk from the bulk tank shall  
10 only be permitted as long as the bulk tank is completely emptied, cleaned, and sanitized prior to  
11 the addition of more milk to the bulk tank.

12 **SECTION 17.** ATCP 82.10 (11) (am) is created to read:

13 ATCP 82.10 (11) (am) Partial removal of milk from the bulk tank shall be permitted if all  
14 of the following apply:

- 15 1. The bulk tank is equipped with a 7 day recording device acceptable to the department.
- 16 2. The bulk tank is cleaned and sanitized when emptied.
- 17 3. The bulk tank is emptied at least every 72 hours.
- 18 4. The bulk milk weigher and sampler indicates the time and date on the recorder chart  
19 when a partial pickup is made and when the bulk tank is emptied.

20 **SECTION 18.** ATCP 82.10 (11) (b) and (c) are amended to read:

21 ATCP 82.10 (11) (b) After a bulk milk hauler weigher and sampler has collected all of  
22 the milk from a bulk tank, the bulk milk hauler weigher and sampler shall disconnect the milk  
23 hose from the bulk tank, cap the hose, and return the hose to its cabinet in the bulk milk tanker.

1 The bulk milk hauler weigher and sampler shall inspect the bulk tank for abnormal sediments,  
2 and shall report any abnormal sediments to the dairy plant operator.

3 ATCP 82.10 (11) (c) After the bulk milk hauler weigher and sampler has disconnected  
4 the milk hose and inspected the empty bulk tank for abnormal sediments, the bulk milk hauler  
5 weigher and sampler shall rinse the bulk tank and milkhouse floor with cold or lukewarm water  
6 unless the bulk tank is self-cleaning and includes a pre-rinse cycle as part of the self-cleaning  
7 process.

8 **SECTION 19.** ATCP 82.12 (1) (a) and (b), (2), (2) (a) to (d), are amended to read:

9 ATCP 82.12 (1) (a) A bulk milk hauler weigher and sampler or other individual shall  
10 collect a sample of a producer's milk before that milk is commingled with milk from any  
11 other producer. The bulk milk hauler weigher and sampler or other individual who collects  
12 the sample shall be licensed under s. 98.146 or 97.17, Stats.

13 ATCP 82.12 (1) (b) A bulk milk hauler weigher and sampler who collects milk from a  
14 dairy farm bulk tank shall collect the milk sample under par. (a). The bulk milk hauler  
15 weigher and sampler shall collect the milk sample from the bulk tank before the milk hauler  
16 transfers the bulk tank contents to a bulk milk tanker. The bulk milk hauler weigher and  
17 sampler shall collect the sample according to sub. (2). The milk sample may not be  
18 commingled with a milk sample from any other bulk tank.

19 ATCP 82.12 (2) SAMPLING PROCEDURE; DAIRY FARM BULK TANKS. A bulk  
20 milk hauler weigher and sampler shall comply with the following procedures when collecting  
21 a milk sample from a farm bulk tank under sub. (1) (b):

22 ATCP 82.12 (2) (a) The bulk milk hauler weigher and sampler shall collect the sample  
23 from the dairy farm bulk tank after the bulk tank contents have been thoroughly mixed to

1 ensure that the sample is representative. If the bulk tank capacity is less than 1500 gallons,  
2 milk in the bulk tank shall be agitated in the bulk milk hauler's weigher and sampler's  
3 presence for at least 5 minutes before a sample is taken. If the bulk tank capacity is 1500  
4 gallons or more, milk in the bulk tank shall be agitated in the bulk milk hauler's weigher and  
5 sampler's presence for at least 10 minutes before a sample is taken.

6       ATCP 82.12 (2) (b) The bulk milk hauler weigher and sampler shall collect the sample  
7 using a sample dipper that is of sanitary design and construction, is clean and in good repair.  
8 The dipper shall be cleaned, sanitized , and then dipped at least twice in the bulk tank milk  
9 before it is used to collect a sample. The bulk milk hauler weigher and sampler shall  
10 sanitize the dipper in a sanitizing solution that is not less than 100 ppm nor more than 200  
11 ppm chlorine or an equivalent sanitizing solution and shall comply with the label directions  
12 of the sanitizing solution.

13       ATCP 82.12 (2) (c) After dipping the milk sample from the bulk tank, the bulk milk  
14 hauler weigher and sampler shall pour the sample into a sample container under sub. (4), and  
15 shall securely close the container. The container shall be labeled with the information  
16 required under sub. (5). When pouring the sample into its container, the bulk milk hauler  
17 weigher and sampler shall take care not to contaminate the sample or spill milk back into the  
18 open bulk tank. The bulk milk hauler weigher and sampler shall handle the sample  
19 container and cap aseptically.

20       ATCP 82.12 (2) (d) After collecting a milk sample, the bulk milk hauler weigher and  
21 sampler shall immediately rinse the sample dipper with clean potable water.

1           **SECTION 20.** ATCP 82.12 (2m), (3), (4), (5), and (6) are renumbered ATCP 82.12 (3),  
2           (4), (5), (6), and (7), and ATCP 82.12 (3) (b), (4), (5) (d), (6), and (7) (a) and (b), as  
3           renumbered, are amended to read:

4           ATCP 82.12 (3) (b) Before the individual collects the milk sample, the individual shall  
5           verify ~~all of the following~~:

6           ~~1. That the bulk milk tanker access port is properly sealed. A dairy plant operator may not~~  
7           ~~accept the bulk milk shipment if the bulk milk tanker is not properly sealed when it arrives at~~  
8           ~~the dairy plant.~~

9           ~~2. That~~that the contents of the bulk milk tanker have been thoroughly mixed, immediately  
10          prior to sampling, to ensure that the entire contents are homogeneous at the time of sampling.  
11          The contents shall be mixed in a manner that is known to ensure homogeneity.

12          ATCP 82.12 (4) TEMPERATURE CONTROL SAMPLE. A bulk milk hauler weigher  
13          and sampler shall collect 2 milk samples under sub. (1) at the first dairy farm where milk is  
14          collected for each bulk milk tanker load. The bulk milk hauler weigher and sampler shall  
15          mark one of those samples as the temperature control sample for all samples pertaining to  
16          that load. The sample container for the temperature control sample shall be marked with the  
17          producer's identification number, the bulk milk hauler's weigher and sampler's initials, the  
18          date and time when the sample was collected, and the temperature of the milk in the farm  
19          bulk tank from which the sample was collected.

20          ATCP 82.12 (5) (d) Labeled with the all of the information required under sub. ~~(5)~~ (6), or  
21          designed so that the bulk milk hauler weigher and sampler can easily mark that information  
22          on the sample container.

1           ATCP 82.12 (6) SAMPLE IDENTIFICATION. Immediately before a bulk milk hauler  
2 weigher and sampler collects a milk sample under sub. (1), but before the bulk milk hauler  
3 weigher and sampler opens the sample container, the bulk milk hauler weigher and sampler  
4 shall clearly and indelibly label the sample container with all of the following information  
5 unless that information is already labeled on the sample container:

6           (a) A producer identification number, assigned by the dairy plant operator, that uniquely  
7 identifies the milk producer.

8           (b) The date when the sample was collected.

9           ATCP 82.12 (7) (a) Immediately after a bulk milk hauler weigher and sampler collects a  
10 milk sample under sub. (1), the bulk milk hauler weigher and sampler shall place the sample  
11 container in a clean refrigerated carrying case in which the bulk milk hauler weigher and  
12 sampler shall keep the sample at a temperature of 32 to 40° F. (0 to 4° C.). The carrying  
13 case shall be constructed of rigid metal or plastic, shall be effectively insulated and  
14 refrigerated to keep samples at the required temperature, and shall have racks designed to  
15 hold samples in a proper upright position. If sample containers are packed in ice or cold  
16 water to keep the samples refrigerated, the ice or water shall cover no more than 2/3 of each  
17 sample container.

18           ATCP 82.12 (7) (b) A bulk milk hauler weigher and sampler who collects a milk sample  
19 [under] sub. (1) shall promptly deliver the sample to the dairy plant that receives the milk  
20 from the producer, or to a certified testing laboratory designated by the dairy plant operator.

21           **SECTION 21.** ATCP 82.14 (3) is repealed.

22           **SECTION 22.** ATCP 82.14 (4) is renumbered ATCP 82.14(3) and amended to read:

- 1           ATCP 82.14 (3) ~~After each day's use, a~~ A bulk milk tanker shall be cleaned and sanitized  
2   when empty as provided under s. ATCP 82.08.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

WISCONSIN DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

By \_\_\_\_\_  
Ben Brancel, Secretary